

## REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed August 6, 2004. Claims 1-33 and 41-68 were subject to restriction and/or election requirement.

Claims 1-33 and 41-68 were previously presented. Claims 1-33 and 41-68 remain in the application.

### **Election/Restriction Requirements:**

In response to the restriction requirement of August 6, 2004, the Applicant provisionally elects, with traverse, species 1 of FIGs. 3c and 3d. The claims considered readable thereon being generic claims 1 and 41. Upon allowance of a generic claim, Applicant is entitled to consideration of claims to additional species.

The Applicant respectfully traverses the election requirement for the following reasons. Examination of at least the apparatus claims 1, 19, 26, 27, 33, 41, 65, and 67 in the same application would not pose a serious burden under M.P.E.P. § 805.05(e) because there is commonality of dominant elements between the claims of species 1-9 (FIGs. 3b-3e, 9, 10, 13-16). Further, as recognized in MPEP § 806.04(d), 3<sup>rd</sup> paragraph, multiple species can be included in the same case where they contain all of the limitations of the generic claim. In the present case, all the embodiments shown in FIGs. 3b-3e, 9, 10, 13-16 include the limitations of generic claim 1, namely: a speaker device for emitting subsonic, sonic or ultrasonic compression waves comprising (1) a rigid emitter plate having a plurality of apertures, (2) a thin piezoelectric film disposed across the apertures of the emitter plate, (3) electrical contact means coupled to the piezoelectric film, and (4) a pressure means coupled to the emitter plate.

FIG. 3a shows a cutaway perspective drawing of FIG. 1. FIG. 3a contains all of the elements of generic claim 1, comprising (1) a rigid emitter plate 128, (2) a thin piezoelectric film 104, (3) an electrical contact means 120, and (4) a drum 100 configured to hold pressurized gasses (See specification P. 11, Lines 27-34). FIG. 3b shows all of the discussed elements in FIG. 3a with the addition of a polymer layer 140. FIG. 3c shows all of the discussed elements in FIG. 3b, with the piezoelectric film 104 located on an inside of the rigid emitter plate 128. FIG.

3d shows all of the discussed elements in FIG. 3c with a thin rigid emitter plate 128. FIG. 3e shows all of the discussed elements in FIG. 3d with a second clamp 143. FIG. 9 shows all of the discussed elements in FIG. 3b with the addition of a backwave reinforcement structure 150. FIG. 10 shows all of the discussed elements in FIG. 9 wherein the back cover 110 acts as the backwave reinforcement structure 154. FIGs 13 and 14 show a simplified view of FIG. 3b, showing a speaker device having a convex and concave emitter plate respectively. FIG. 15 shows all of the discussed elements in FIG. 3c, with the addition of a convex emitter plate and a convex backplate. FIG. 16 shows all of the discussed elements in FIG. 3c, with the addition of a concave emitter.

A search directed to the apparatus claims of Species 1 (FIGs. 3c and 3d) would inherently satisfy a search directed to the apparatus claims of Species 2- 9 (FIGs. 3b, 3e, 9, 10, and 13-16). Therefore, prosecution of the patent application including Species 1-9 is appropriate.

## CONCLUSION

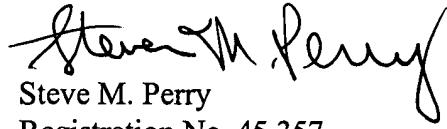
In light of the above, Applicant respectfully submits that pending claims 1-33 and 41-68 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Steve M. Perry at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Check No. 20438, in the amount of \$55, is enclosed pursuant to 37 C.F.R. § 1.17(a)(1), for a one month extension of time pursuant to 37 C.F.R. § 1.136. No claims were added. Therefore, no additional fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 1st day of October, 2004.

Respectfully submitted,

  
Steve M. Perry  
Registration No. 45,357

THORPE NORTH & WESTERN, LLP  
Customer No. 20,551  
P.O. Box 1219  
Sandy, Utah 84091-1219  
Telephone: (801) 566-6633

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